

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2000

D036075 Kaiser Foundation Hospital v. Workers' Compensation Appeals Board and Melody Yturralde

The petition is denied.

D036296 In re Jeremy P. et al., Juveniles

The attorney for petitioner Heather P. has notified the court on behalf of the petitioner that a Petition for Writ of mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

D035803 Myesha B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petition is denied. Huffman, Acting P.J.; We Concur: Nares, J., McDonald, J.

D034310 Moore v. Grote

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre
Deputy Clerk: D. E. Moore

D034124 US/MEX Manufacturing Corporation v. Clicker Corporation, et al.

Cause called on merits. Peter D. Lepiscopo, Esq. argued for appellant. Steven A. Sobel, Esq. argued for respondent, Clicker Corporation. Philip J. Giacinti, Jr., Esq. argued for respondent, Chamberlain Group, Inc. Mr. Lepiscopo replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

D034586 Sardella v. Larson, et al.

Cause called on merits. David Scholis, Esq. argued for appellant. Matthew R. Rutherford, Esq. argued for respondent. Mr. Scholis replied for appellant. Cause submitted.

Court recessed at 9:38 a.m. to change panel members. New panel members: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and James McIntyre

D035157 Palombo, et al. v. Exploradora Baby Rock

Cause called on merits. Mitchell S. Wagner, Esq. argued for appellant. David R. Clark, Esq. argued for respondent. Mr. Wagner replied for appellant. Cause submitted.

Court recessed at 10:07 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Don Work and Gilbert Nares

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2000 (Continued)

D030839 Auxter v. Chopra Center for Well Being , et al.

Cause called on merits. Carla A. DiMare, Esq. argued for appellant. Kathryn E. Karcher, Esq. argued for respondent. Ms. DiMare replied for appellant. Cause submitted.

Court recessed at 11 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justice Judith Haller and Gilbert Nares

D035216 West Village, Inc. v. California Coastal Commission

Cause called on merits. Jeffrey A. Chine, Esq. argued for appellant. James Jordan Patterson, Deputy Attorney General argued for respondent. Mr. Chine replied for appellant. Cause submitted.

D034712 Bornstein v. Stump's Apple Market, Inc.

Cause called on merits. Michael Smith, Esq. argued for appellant. Jeffrey S. Mintz, Esq. argued for respondent, Bornstein. Steven Rahmanan, Esq. was present in oral argument for respondent, but did not argue. Mr. Mintz replied for appellant. Cause submitted.

Court recessed at 12:05 p.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

D034858 Buening v. California Department of Motor Vehicles

Cause called on merits. Paul H. Neuharth, Esq. argued for appellant. Catherine Ysrael, Deputy Attorney General argued for respondent. Mr. Neuharth replied for appellant. Cause submitted.

Court recessed at 12:30 p.m. until 1:30 p.m.

D032080 Johnston et al. v. Hillhouse et al.

The judgment is affirmed. Kremer, P.J.; We Concur: Benke, J., McDonald, J.

D034885 People v. Minor

The petition for rehearing is denied.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald

Deputy Clerk: D. E. Moore

D034072 Haines v. San Diego Police Department, et al.

Cause called on merits. Juan Moreno Haines, appellant in pro per, appeared telephonically for oral argument. John F. Kirk, Deputy City Attorney argued for respondent. Cause submitted.

D034201 In re Colby B., a juvenile

Cause called on merits. Michon Hinz, Esq. argued for appellant. Rick Millar, Deputy Attorney General argued for respondent. Ms. Hinz replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 10, 2000 (Continued)

D034241 In re Ronald W., a juvenile

Cause called on merits. Ronda G. Norris, Esq. argued for appellant. Rick Millar, Deputy Attorney General argued for respondent. Ms. Norris replied for appellant. Cause submitted.

D033707 People v. Madsen

Cause called on merits. Nicholas De Pento, Esq. argued for appellant. Barry Carlton, Deputy Attorney General argued for respondent. Mr. De Pento replied for appellant. Cause submitted.

D033348 Smith v. Brunk

Cause called on merits. Michael H. Fish, Esq. argued for appellant. Ernest Slome, Esq. argued for respondent. Mr. Fish replied for appellant. Cause submitted.

D033071 People v. Carey

Cause called on merits. Jerome P. Wallingford, Esq. argued for appellant. Rick Millar, Deputy Attorney General argued for respondent. Mr. Wallingford replied for appellant.

D034271 Benjamin v. Benjamin

Cause called on merits. Richard L. Benjamin, argued for appellant in pro per. Joni B. Benjamin, argued for respondent in pro per. Mr. Richard Benjamin replied. Cause submitted.

Court recessed at 4 p.m. until Wednesday, October 11, 2000 at 9 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2000

D034352 Oceanside Swap Meet Associates v. State of California et al.

The petition for rehearing is denied.

D034138 People v. Eppert

The petition for rehearing is denied.

D034397 Kipp v. Wells et al.

The petition for rehearing is denied.

D035038 Kulka v. San Diego Unified Port District

The judgment is affirmed. Kulka's motion for sanctions is denied. Haller, J.;

We Concur: Work, Acting P.J., O'Rourke, J.

D035154 Bongard v. Edward, Sooy & Byron et al.

The judgment is affirmed. Defendants are awarded costs on appeal. Kremer, P.J.;

We Concur: Benke, J., O'Rourke, J.

D033780 People v. Ragsdale

The orders are affirmed. McDonald, J.; We Concur: Work, Acting P.J., McIntyre, J.

D034595 People v. Wood

The request for modification of the opinion in this matter is denied.

D030928 Hill v. Teledyne Industries, Inc.

The petition for rehearing is denied.

D030928 Hill v. Teledyne Industries, Inc.

The request for publication of the opinion is denied.

D035569 In re Daniel P., a Juvenile

The orders are affirmed. Kremer, P. J.; We Concur: Huffman, J., Nares, J.

D036310 McAvoy v. Superior Court County of San Diego/Ebert

The petition is denied.

D034713 In re Christopher D., a Juvenile

The juvenile court orders are affirmed. Kremer, P. J., We Concur: Work, J., Huffman, J.

D035153 People v. Le

The judgment is affirmed. McDonald, J., We Concur: Work, Acting P. J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2000 (Continued)

D034428 People v. Torres

The sentence is reversed and the matter is remanded for a new sentencing hearing at which the court shall exercise its discretion under section 1385 with respect to the section 12022.7, subdivision (a) enhancement, after which it shall prepare an amended abstract of judgment and forward it to the Department of Corrections. In all other respects the judgment is affirmed. Haller, J.;
We Concur: Benke, Acting P.J., McDonald, J.

D036461 Baumer v. San Diego County Superior Court/People

The petition is denied.

D033163 People v. Minchaca

The judgment is affirmed. Work, Acting P. J., We Concur: Huffman, J., O'Rourke, J.

D033213 People v. Crawford

The petition for rehearing is denied.

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke
Deputy Clerk: D. E. Moore

D026830 People v. Self

D034432 In re Self on Habeas Corpus

Causes called on merits. Allen R. Bloom, Esq. argued for appellant. Jeffrey J. Koch, Deputy Attorney General argued for respondent. Mr. Bloom replied for appellant. Cause submitted as to the appeal ONLY, D026830.

D034281 Sierra Club v. Imperial County, et al.

Cause called on merits. Julie Marie Hamilton, Esq. argued for appellant. John Bowman, Esq. argued for respondent, United States Gypsum Company. Joanne Yeager, Esq. argued for respondent, Imperial County. Ms. Hamilton replied for appellant. Cause submitted.

D034683 Soverns v. JSA Healthcare Corporation, et al.

Cause called on merits. Gary Jones, Esq. argued for appellant. Arthur A. Wellman, Esq. argued for respondent, JSA Healthcare Corporation. Robert Harrison, Esq. argued for respondent, Charles Lee. Mr. Jones replied for appellant. Cause submitted.

D034808 Gibbs v. Dombal, et al.

Cause called on merits. Brigitte Gibbs argued for appellant in pro per. Jeffrey S. Baberink, Esq. argued for respondent, Dombal. Ed Farrell, Esq. was present in oral argument for respondent, Rent-a-Car and submitted on the briefs. Ms. Gibbs replied. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2000 (Continued)

Court recessed at 10:13 a.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

D028750 People v. Wilson

Cause called on merits. Carmela F. Simoncini, Esq. argued for appellant. Laura Fox Martin, Deputy Attorney General argued for respondent. Ms. Simoncini replied for appellant. Cause submitted.

Court recessed at 10:50 a.m. until 1:30 p.m.

D029792 Faraz BCD et al. v. Mission Valley Partnership et al.

The summary judgments are affirmed. The motions to dismiss are denied. Costs on appeal are awarded to respondents. Huffman, J.; We Concur: Kremer, P.J., McDonald, J.

D034196 People v. Benitez

The judgment is affirmed. The trial court is directed to correct the minutes and abstract of judgment to reflect the imposition of a four-year term on the firearm use enhancement. Work, J.; I Concur: Kremer, P.J., I concur in the result: O'Rourke, J.

D035711 In re Michael E., a Juvenile

Judgment affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D035955 Dorothy B. v. San Diego County Superior Court/San Diego County Health and Human Services Agency

The petition is denied. Huffman, Acting P.J.; We Concur: Nares, J., McDonald, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald
Deputy Clerk: D. E. Moore

D031688) Huffman v. Arts Alive Foundation

D032830) Huffman v. City of Poway

Cause called on merits. Robert B. Coffin, Esq. argued for appellant. Linda Law Peters, Esq. argued for amicus curiae, Department of Industrial Relations. Scott Patterson, Esq. argued for respondent, Arts Alive. Mr. Coffin replied. Cause submitted.

D033394 Rattan, et al. v. USAA Casualty Insurance Company

Cause called on merits. Richard P. Verlasky, Esq. argued for appellant. Douglas F. Walters, Esq. argued for respondent. Mr. Verlasky replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 11, 2000 (Continued)

D035310 Kenner v. Augustine

Cause called on merits. Michael H. Fish, Esq. argued for appellant. Erik S. Bliss, Esq. argued for respondent. Cause submitted.

Court recessed at 3:20 p.m. until Thursday, October 12, 2000 at 9 a.m.

D035461 In re B. M. et al. Juveniles

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2000

Court convened at 9:00 a.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Alex McDonald
Deputy Clerk: D. E. Moore

D034931 Abdulmeseh v. Registrar of Contractors of the Contractors' State License Board
Cause called on merits. Saieb Yousif Abdulmeseh, argued for appellant in pro per. Susan A. Ruff, Deputy Attorney General argued for respondent. Mr. Abdulmeseh replied for appellant in pro per. Cause submitted.

D034492 Harner v. Harner
Cause called on merits. Richard M. Peterson, Esq. argued for appellant. Bruce W. Cozart, Esq. argued for respondent. Mr. Peterson replied for appellant. Cause submitted.

D033341 Tolouei v. Mani, et al.
Cause called on merits. Al Van Slyke, Esq. argued for appellant for the purposes of oral argument ONLY. Glen Dorgan, Esq. argued for respondent. Cause submitted.

Court recessed at 9:40 a.m. until 1:30 p.m.

D032815 People v. Dodson
D035020 Dodson v. San Diego County Superior Court/People
Order granting augment. Order modifying opinion. (No change in judgment.)

D032815 People v. Dodson
D035020 Dodson v. San Diego County Superior Court/People
The petition for rehearing is denied.

D036559 In re Raja on Habeas Corpus
The petition is denied.

D035125 In re Kaytlyn K., a Juvenile
The petition for rehearing is denied.

D033314 People v. McGee
The sentence is vacated and the case is remanded for a new sentencing hearing in accordance with the views expressed above. In all other respects, the judgment is affirmed. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D036148 Qualcomm, Inc. v. Superior Court of San Diego County/Sprague et al.
The petition and the motion are denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2000 (Continued)

D034982 Kammerer v. North County Ford, Inc.

The order is reversed and the matter is remanded to the superior court, which is directed to dismiss the action with prejudice. The remittitur shall issue immediately. Each party shall bear its own costs on appeal. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D034382 Kammerer v. North County Ford, Inc.

The judgment is reversed and the matter is remanded to the superior court, which is directed to dismiss the action with prejudice. The remittitur shall issue immediately. Each party shall bear its own costs on appeal. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke
Deputy Clerk: D. E. Moore

D033509 People v. Owens

Cause called on merits. Robert L. Visnick, Esq. argued for appellant. Elizabeth Hartwig, Deputy Attorney General argued for respondent. Mr. Visnick replied for appellant. Cause submitted.

D034426 People v. Cox, et al.

D036343 In re Cox on Habeas Corpus

Causes called on merits. Doris S. Browning, Esq. argued for appellant, Richardson. Laura G. Schaefer, Esq. argued for appellant, Cox. Lisa Simons, Deputy Attorney General argued for respondent. Ms. Browning replied. Ms. Schaefer replied. Cause submitted as to appeal ONLY, D034426.

D033814 Faulds v. Union Bank of California

Cause called on merits. M. Richardson Lynn, Jr., Esq. argued for appellant. Jeffrey M. Byer, Esq. argued for respondent. Mr. Lynn replied for appellant. Cause submitted.

D034991 Mercury Books, Inc. v. G&B Emporia, Inc., et al.

Cause called on merits. David R. Clark, Esq. argued for appellant. John B. Barriage, Esq. argued for respondent. Mr. Clark replied for appellant. Cause submitted.

D033829 National Notary Association v. U.S. Notary, et al.

Cause called on merits. Daniel J. Coplan, Esq. argued for appellant. Greg A. McAtee, Esq. argued for appellant. Mr. Coplan replied for appellant. Cause submitted.

Court recessed at 2:45 p.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

D034827 Mailhot v. City of San Diego

Cause called on merits. James Bruce Henderson, Esq. argued for appellant. Leslie Girard, Deputy City Attorney General argued for respondent. Mr. Henderson replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 12, 2000 (Continued)

Court recessed at 3:35 p.m. until Friday, October 13, 200 at 9:00 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 13, 2000

D036472 James F., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency
The petition is denied.

D035626 In re Mendoza on Habeas Corpus
The pending petition for writ of habeas corpus, In re Francisco Javier Mendoza, D035626, is consolidated with the pending appeal, People v. Mendoza, D034205, for disposition.

D034205 People v. Mendoza
D035626 In re Mendoza on Habeas Corpus
(Consolidated) The trial court is directed to modify the abstract of judgment to reflect striking of the prior prison term enhancements and forward a corrected copy to the Department of Corrections. As modified, the judgment is affirmed. The petition is denied. Work, J., We Concur: Kremer, P. J., Huffman, J.

D035465 In re Jose M., a Juvenile
The juvenile court's order declaring Jose a ward is affirmed. Huffman, J., We Concur: Kremer, P. J., O'Rourke, J.

D036560 Gomez v. Superior Court County of San Diego/People
The petition is denied.

D034092 Dorman v. NTN Communications, Inc.
The judgment is reversed. Dorman is to recover his costs of appeal. McIntyre, J., We Concur: Huffman, Acting P. J., Haller, J.

D034076 City of Vista v. Robert Thomas Securities, Inc.,
The judgment is reversed. Respondent to bear costs on appeal. O'Rourke, J., We Concur: Work, Acting P. J., Haller, J.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre
Deputy Clerk: D. E. Moore

D033709 Alesi v. Board of Administration of the City of San Diego
Cause called on merits. Larry Roberts, Esq. argued for appellant. Roxanne Story Parks, Esq. argued for respondent. Mr. Roberts replied for appellant. Cause submitted.

D034544 Malish v. City of San Diego
Cause called on merits. Duane H. Sceper, Esq. argued for appellant. Maria Severson, Deputy City Attorney argued for respondent. Mr. Sceper replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 13, 2000 (Continued)

D034605 Viray v. United States Bank National

Cause called on merits. Carmelita Viray, argued for appellant in pro per. Richard B. Davis, Esq. argued for respondent. Ms. Viray replied. Cause submitted.

Court recessed at 10:05 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justice James McIntyre
Deputy Clerk: D. E. Moore

D033720 People v. Flores

Cause called on merits. Glen Niemy, Esq. argued for appellant. David Delgado-Rucci, Deputy Attorney General argued for respondent. Mr. Niemy replied for appellant. Cause to be submitted once J. Work has had a chance to review the oral argument tape.

Court recessed at 1:45 p.m. Court reconvened with the panel of The Honorable Richard Huffman, Acting Presiding Justice and The Honorable Associate Justices Judith Haller and James McIntyre

D033900 People v. Rivera

Cause called on merits. Michelle Rogers, Esq. argued for appellant. David Delgado-Rucci, Deputy Attorney General argued for respondent. Ms. Rogers replied for appellant. Cause submitted.

D033287 People v. Fields

Cause called on merits. Russell S. Babcock, Esq. argued for appellant. David Delgado-Rucci, Deputy Attorney General argued for respondent. Mr. Babcock replied for appellant. Cause submitted.

D033775 Lee v. 3-D Industries, et al.

Cause called on merits. Thomas Kelly Cox, Esq. argued for appellant. Deanna Baker, Esq. argued for respondent. Mr. Cox replied for appellant. Cause submitted.

D033288 People v. Strong

D034308 In re Strong on Habeas Corpus

Causes called on merits. Richard W. Weinthal, Esq. argued for appellant. Carlson Legrand, Deputy Attorney General argued for respondent. Mr. Weinthal replied for appellant. Cause submitted as to appeal ONLY, D033288.

Court recessed at 3 p.m. until Monday, October 16, 2000 at 9 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

October 13, 2000 (Continued)

D036456 Rose v. Superior Court County of San Diego/People

For good cause shown, the superior court is ordered to show cause why the relief requested should not be granted. Absent objection on or before October 19, 2000, the People's informal response to the petition will be deemed the return to the order to show cause. Petitioner may file a reply on or before October 30, 2000. If counsel does not request oral argument by November 1, 2000, it will be deemed waived.

D036456 Rose v. Superior Court County of San Diego/People

The petition for writ of mandate, Michael Rose v. Superior Court of San Diego County, D036456, will be considered at the same time as the pending petition for writ of prohibition, Morgan Victor Manduley v. Superior Court of San Diego County, D036356.

D034502 In re Blake V., a juvenile

The petition for rehearing is granted. On the court's own motion, oral argument is calendared for Monday, November 13, 2000 at 1:30 p.m. at 750 "B" Street, Suite 300, San Diego, California. Attorney Laurance S. Smith is hereby ordered to appear personally before this Court for oral argument.

D036587 Lavoie v. Superior Court of San Diego County/Pacificia Reo

The petition is denied.